

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 SAVE OUR PLAZA, ) Case No. 14-0001-A  
 )  
 AND )  
 )  
 SARAH F. SCHWENK, TREASURER )  
 )  
 Respondents. )

**CONSENT ORDER**

The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that Respondents Save our Plaza and Schwenk violated Sections 130.021.4(1), 130.021.7, 130.021.8, 130.046.7, 130.031.2, 130.046.1, 130.041.1(2)-(5), 130.036.8, and 130.041.1.(7), RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$5,000 pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$500 of that fee is paid within forty-five (45) days after the date of this Order, the remainder of the fee will be stayed, subject to the provisions below. The fee will be paid by check or money order made payable to and sent to the Missouri Ethics Commission.

3. Regardless of the stay in paragraph 2 above, if any Respondent commits any further violations of the campaign finance laws pursuant to Chapter 130, RSMo, as amended, within the two-year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that such Respondent committed such a violation.
4. Respondents Save our Plaza and Schwenk shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 16<sup>th</sup> day of November, 2015

By:



---

Charles E. Weedman, Jr., Chair  
Missouri Ethics Commission

BEFORE THE  
MISSOURI ETHICS COMMISSION

**Filed**  
**NOV 16 2015**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION, )  
)  
Petitioner, )  
) Case No. 14-0001-A  
v. )  
)  
SAVE OUR PLAZA, )  
Continuing Committee )  
)  
and )  
)  
SARAH F. SCHWENK, )  
Treasurer )  
)  
)  
Respondents. )

**JOINT STIPULATION OF FACTS, WAIVER OF HEARING  
BEFORE THE MISSOURI ETHICS COMMISSION, AND  
CONSENT ORDER WITH JOINT PROPOSED  
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The undersigned parties jointly stipulate to the facts and consent to the action set forth below.

The undersigned Respondents, Save our Plaza and Schwenk, acknowledge that they have received and reviewed a copy of the Complaint filed by the Petitioner in this case, and the parties submit to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondents further acknowledge that they are aware of the various rights and privileges afforded by law, including but not limited to: the right to appear and be represented by counsel; the right to have all charges against Respondents be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondents; the right to present evidence on Respondents' behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of

these rights provided to Respondents by operation of law, the undersigned Respondents knowingly and voluntarily waive each and every one of these rights and freely enter into this Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agree to abide by the terms of this document.

This Joint Stipulation may be executed by the parties in counterparts which, taken together, shall constitute a single agreement and may not be altered or amended except in the manner provided herein.

**I.**

Based upon the foregoing, the Petitioner and the undersigned Respondents jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

**JOINT PROPOSED FINDINGS OF FACT**

1. The Missouri Ethics Commission is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.

2. Respondent Save Our Plaza is a continuing committee that filed a statement of committee organization with the Missouri Ethics Commission in January 2011.

3. On June 8, 2011, Respondent Save Our Plaza filed with the Missouri Ethics Commission an amended statement of committee organization identifying Respondent Schwenk as the committee's treasurer.

4. Pursuant to Section 105.961, RSMo, the Commission's staff investigated the reports and statements filed with the Commission and reported the investigation findings to the Commission.

5. Based on the report of the Commission's staff, the Commission determined that there were reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

### **COUNT I**

#### *Failure to maintain official depository account and failure to terminate*

6. Respondent Save Our Plaza identified on its original and amended statement of committee organization an account with Commerce Bank as its official depository account.

7. In December 2013, Commerce Bank closed this account.

8. Since December 2013, Respondent Save Our Plaza has neither filed a statement of committee organization disclosing the account closure, nor has it filed a statement of committee organization disclosing a new official depository account.

9. Between December 2013 and the filing of this complaint, Respondent Save Our Plaza has existed as a continuing committee without an active official depository account.

### **COUNT II**

#### *Checks not signed by treasurer or deputy treasurer*

10. In March 2011, Respondent Save Our Plaza's signature card on file with its official fund depository, Commerce Bank, had only three individuals, Mary Steeb, Michael Koon, and Amanda Crawley, listed as authorized agents for the committee; Respondent Schwenk was not one of these individuals authorized to make deposits or withdrawals on behalf of the

committee, and the committee failed to include Respondent Schwenk as an individual authorized to make deposits or withdrawals on behalf of the committee.

11. In June 2011, Respondents filed with the Ethics Commission an amended statement of committee organization identifying Respondent Schwenk as the treasurer of Respondent Save Our Plaza

12. Respondent Save Our Plaza has never identified a deputy treasurer.

13. Respondent Save Our Plaza did not update the signature card on file with Commerce Bank to identify Respondent Schwenk as an agent authorized to make deposits or expenditures on behalf of the committee, and Respondent Save Our Plaza did not authorize Respondent Schwenk to be on the signature card on file with Commerce Bank.

14. In June 2012, Respondent Save Our Plaza made two expenditures of \$2,900 each, through checks that were not signed by its treasurer, Respondent Schwenk, and Respondent Schwenk did not have check writing authority and Respondent Schwenk did not sign a check on behalf of Respondent Save Our Plaza.

### **COUNT III**

#### *Failure to timely and accurately file reports*

15. Respondents did not timely file the July 2012 quarterly campaign finance disclosure report.

16. Between October 2012 and October 2014, Respondents failed to timely file seven (7) campaign finance disclosure reports of limited activity.

17. Respondents did not file campaign finance disclosure reports with accurate money on hand for the January 2012 and July 2012 quarterly reporting periods.

#### COUNT IV

##### *Failure to maintain committee records*

18. The Ethics Commission initiated its audit in November 2014, after Respondents failed to respond to a request for bank records and other committee documentation.

19. The Ethics Commission issued a subpoena to Respondents on November 17, 2014.

20. Respondents have not maintained committee documentation as required by law and have not provided all committee documentation as requested in the subpoena.

#### COUNT V

##### *Failure to timely file direct expenditure report*

21. In late 2010, the owner of a property in the Plaza in Kansas City, Missouri, proposed a re-zoning and construction of an office tower in the Plaza (“rezoning proposal”).

22. In response, the group Save Our Plaza formed to oppose the rezoning proposal.

23. Save Our Plaza formed as a continuing committee, registered with the Ethics Commission, and hired a planning consultant and an attorney to develop language for a proposed ballot measure that opposed the rezoning proposal.

24. After the Kansas City Council initially approved the rezoning proposal in May 2011, Respondent Save Our Plaza hired campaign workers to circulate the proposed ballot measure, and in late June 2011, Respondent Save Our Plaza had gathered 18,000 signatures, which was enough to qualify the ballot measure for the November 2011 general election.

25. Between May and June 2011, Respondent Save Our Plaza paid at least \$25,000 to various campaign workers for petition circulation, signature gathering, signature validation, and data entry, all in support of their signature-gathering effort for the proposed ballot measure.

26. Respondent Save Our Plaza also made a \$2,900 payment to the attorney who helped with the proposed ballot measure and another \$2,900 to a consultant who helped with land use planning, public testimony, and performed other work in gaining support for Respondent Save Our Plaza's proposed ballot measure.

27. In all, Respondent Save Our Plaza spent at least \$30,000 in support of its proposed ballot measure.

28. Shortly thereafter, the owner of the property reached an agreement with Save Or Plaza and its allies that if the owner proposed a new rezoning and construction project further west than the original rezoning proposal, there would be no organized opposition.

29. Respondent Save Our Plaza's ballot measure was not placed on the November ballot because the owner of the property renounced its proposal and the Kansas City Council voted unanimously to repeal the initial rezoning.

30. Respondents never identified on a direct expenditure supplemental report expenditures that it made that were in support of the ballot measure it proposed.

## **JOINT PROPOSED CONCLUSIONS OF LAW**

### **COUNT I**

#### *Failure to maintain official depository account and failure to terminate*

31. Every committee "shall have a single official fund depository ... and thereafter maintain at least one official depository account in its own name." § 130.021.4(1), RSMo.

32. Any changes to this official depository account must be reported within twenty days on an amended statement of committee organization. § 130.021.7, RSMo.

33. “Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed.” § 130.021.8, RSMo.

34. “In the case of a committee which disbands and is required to file a termination statement . . . the candidate, committee treasurer or deputy treasurer shall attach to the termination statement a complete disclosure report for the period closing on the date of dissolution.” § 130.046.7, RSMo.

35. There is probable cause to believe that Respondents violated Sections 130.021.4(1), 130.021.7, 130.021.8, and 130.046.7, RSMo, by existing as a continuing committee without an active official depository account, failing to timely disclose changes to the committee’s official depository account, failing to timely file a statement of committee termination, failing to timely file a termination report, and that Respondents did so knowingly.

## COUNT II

### *Checks not signed by treasurer or deputy treasurer*

36. Every committee, as defined by Section 130.011, RSMo, “shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and reside in the district or county in which the committee sits.” § 130.021.1, RSMo.

37. “[E]xpenditures shall not be made by a committee except through an official depository account and the committee treasurer, deputy treasurer or candidate.” § 130.021.4(1), RSMo.

38. Except for expenditures from a petty cash fund, “each expenditure of more than fifty dollars, except an in-kind expenditure, shall be made by check drawn on the committee’s

depository and signed by the committee treasurer, deputy treasurer, or candidate.” § 130.031.2, RSMo.

39. There is probable cause to believe that Respondents violated Sections 130.021.4(1) and 130.031.2, RSMo, by making expenditures through checks that were not signed by the treasurer for Respondent Save Our Plaza, and that Respondents did so knowingly.

### **COUNT III**

#### *Failure to timely and accurately file reports*

40. Respondents were required to file quarterly campaign finance disclosure reports or statements of limited activity in lieu of those reports. § 130.046.1, RSMo.

41. “The candidate or the committee treasurer of any committee except a candidate committee is ultimately responsible for all reporting requirements pursuant to this chapter.” § 130.058, RSMo.

42. Respondents were also required to report on those campaign finance disclosure reports the amount of money, including cash on hand at the beginning of each reporting period and the end of each reporting period. § 130.041.1(2)-(5), RSMo.

43. There is probable cause to believe that Respondents violated Sections 130.046.1 and 130.041.1(2)-(5), RSMo, by failing to timely file a campaign finance disclosure report in July 2012, failing to timely file statements of limited activity between October 2012 and October 2014, and failing to accurately list the money on hand for the January 2012 and July 2012 quarterly reporting periods, and that Respondents did so knowingly.

## COUNT IV

### *Failure to maintain committee records*

44. “All records and accounts of receipts and expenditures shall be preserved for at least three years after the date of the election to which the records pertain. Records and accounts regarding supplemental disclosure reports or reports not required pursuant to an election shall be preserved for at least three years after the date of the report to which the records pertain. Such records shall be available for inspection by the campaign finance review board and its duly authorized representatives.” § 130.036.8, RSMo.

45. There is probable cause to believe that Respondents violated Section 130.036.8, RSMo, by failing to maintain and make available committee records, and that Respondents did so knowingly.

## COUNT V

### *Failure to timely file direct expenditure report*

46. Respondents were required to file campaign finance disclosure reports that set forth the “amount of expenditures for or against a candidate or ballot measure during the period covered and the cumulative amount of expenditures for or against that candidate or ballot measure, with each candidate being listed by name, mailing address and office sought.” § 130.041.1(7), RSMo.

47. There is probable cause to believe that Respondents violated Section 130.041.1(7), RSMo, by failing to timely file a direct expenditure supplemental report disclosing expenditures that were made in support of a ballot measure proposed by Respondent Save Our Plaza, and that Respondents did so knowingly.

## II.

Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further action by any party:

1. The parties understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.
2. The Commission shall issue its Consent Order in the form attached hereto as Exhibit A.
  - a. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
  - b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$5,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$500 of that fee within forty-five days after the date of the Order, the remainder of the fee will be stayed. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
  - c. Regardless of the stay in paragraph 2.b above, if any Respondent commits any further violation of the campaign finance laws under Chapter 130, RSMo, within the two-year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that such Respondent has committed such a violation.

d. Respondents Save our Plaza and Schwenk shall be jointly and severally liable for all fees imposed under this order, subject to the terms in subparagraph c above.

3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

4. Respondents, together with their heirs, successors, and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees whatsoever which Respondents or Respondents' attorney may now have or which they may hereafter have, which are based upon or arise out of the above cases.

5. This joint stipulation does not settle, release, waive, or otherwise relieve Respondents from any late filing fees due to the appropriate filing authority, including Petitioner Missouri Ethics Commission. Respondents understand that late filing fees accrue automatically under Section 105.963, RSMo.

SO AGREED:

RESPONDENT SAVE OUR PLAZA

PETITIONER MISSOURI ETHICS  
COMMISSION

By: *Sarah F. Schwenk* 11-10-2015  
Sarah F. Schwenk Date  
Treasurer

By: *James H. Klahr* 11-16-15  
James Klahr Date  
Executive Director

RESPONDENT SARAH F. SCHWENK

By: *Curtis R. Stokes* 11/16/15  
Curtis R. Stokes Date  
Attorney for Petitioner

By: *Sarah F. Schwenk* 11-10-2015  
Sarah F. Schwenk Date

By: *Ralph A. Monaco, II* 11-10-15  
Ralph A. Monaco, II Date  
Attorney for Respondent